

ORDER OF THE SUPREME COURT OF TEXAS

Misc. Docket No. 93-0119

Appointment of a District Judge to Preside  
in a State Bar Disciplinary Action

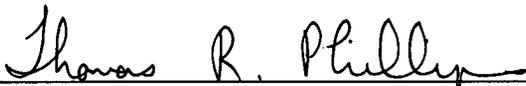
The Supreme Court of Texas hereby appoints the Honorable M. Brock Jones, Jr., Judge of the 112th District Court, to preside in the Disciplinary Action styled:

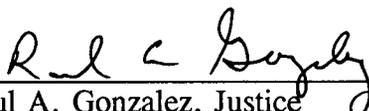
The Commission on Lawyer Discipline v. Frank Paul Smarzik, Jr.

to be filed in a District Court of Travis County, Texas.

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Travis County, Texas, a copy of this Order and of the Disciplinary Petition for filing and service pursuant to Rule 3.03, Texas Rules of Disciplinary Procedure.

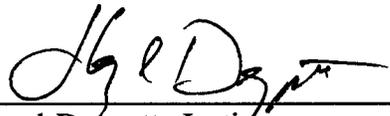
In Chambers, this 28th day of June, 1993.

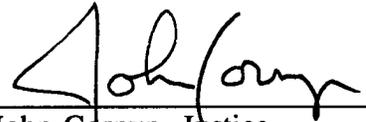
  
\_\_\_\_\_  
Thomas R. Phillips, Chief Justice

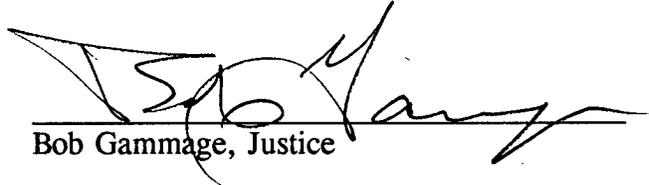
  
\_\_\_\_\_  
Raul A. Gonzalez, Justice

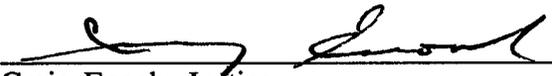
  
\_\_\_\_\_  
Jack Hightower, Justice

  
\_\_\_\_\_  
Nathan L. Hecht, Justice

  
Lloyd Doggett, Justice

  
John Cornyn, Justice

  
Bob Gammage, Justice

  
Craig Enoch, Justice

  
Rose Spector, Justice

NO. \_\_\_\_\_

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
V.	§	TRAVIS COUNTY, TEXAS
FRANK PAUL SMARZIK, JR.	§	_____ JUDICIAL DISTRICT

DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Petitioner, the Commission for Lawyer Discipline, a committee of the State Bar of Texas (hereinafter called "Petitioner"), in the above-entitled and numbered cause and complains of Respondent, Frank Paul Smarzik, Jr., (hereinafter called "Respondent"), showing the Court:

I.

Petitioner brings this disciplinary action pursuant to the State Bar Act, Texas Gov't. Code Ann. §81.001, et seq. (Vernon 1988), The Texas Disciplinary Rules of Professional Conduct, and the Texas Rules of Disciplinary Procedure. The complaint which forms the basis of the Disciplinary Petition was filed after May 1, 1992.

II.

Respondent is an attorney licensed to practice law in Texas and a member of the State Bar of Texas. Respondent is a resident of and has his principal place of practice located in Travis County, Texas. An officer may serve citation on Respondent at 1106 Clayton, Suite #537, Austin, Travis County, Texas, 78723.

III.

In and around December, 1988, Respondent was hired by Toni A. Jones (hereinafter called "Jones") to file a Motion to Modify Child Support Payments in order to increase the amount of her child support payments. Respondent failed to file such Motion to Modify until approximately one year later on or about November 27, 1989. However, Respondent failed to obtain timely service of citation on Complainant's ex-husband.

IV.

The district court subsequently issued a scheduling order on or about November 29, 1989. Respondent failed to meet the deadlines set out in such scheduling order, and the case was dismissed on or about March 29, 1990.

V.

Respondent subsequently refiled the Motion to Modify on or about May 24, 1991, more than one year after the previous dismissal. The case was again placed on the dismissal docket in and around July, 1991 and August, 1991. The case was transferred to Harris County in September, 1991. In and around May, 1992, Respondent requested that the case be set for trial on or about July, 1992.

VI.

Such acts and/or omissions on the part of Respondent as are described in Paragraphs III., IV., and V. hereinabove and which occurred prior to January 1, 1990, constitute conduct violative of Disciplinary Rules 6-101(A)(3), 7-101(A)(1) and/or 7-101(A)(2) of the Texas Code of Professional Responsibility. Such acts and/or omissions on the part of Respondent as are

described in Paragraphs III., IV., and V. hereinabove and which occurred on or after January 1, 1990, constitute conduct violative of Rules 1.01(b)(1), 1.01(b)(2) and/or 1.03(a) of the Texas Disciplinary Rules of Professional Conduct.

VII.

The complaint which forms the basis of the cause of action hereinabove set forth was brought to the attention of the Office of General Counsel of the State Bar of Texas by Toni A. Jones' filing of a complaint on or about July 28, 1992.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner prays for judgment that Respondent be disciplined as the facts shall warrant; and that Petitioner have such other relief to which entitled, including costs of Court and attorney's fees.

Respectfully submitted,

James M. McCormack  
General Counsel

Dawn Miller  
Senior Assistant General Counsel

Office of the General Counsel  
State Bar of Texas  
P.O. Box 12487  
Austin, Texas 78711  
(512) 463-1381



Dawn Miller  
State Bar of Texas No. 15561900  
ATTORNEYS FOR PETITIONER

smarzik.dp



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE  
THOMAS R. PHILLIPS

POST OFFICE BOX 12248      AUSTIN, TEXAS 78711  
TEL: (512) 463-1312  
FAX: (512) 463-1365

CLERK  
JOHN T. ADAMS

JUSTICES  
RAUL A. GONZALEZ  
JACK HIGHTOWER  
NATHAN L. HECHT  
LLOYD DOGGETT  
JOHN CORNYN  
BOB GAMMAGE  
CRAIG ENOCH  
ROSE SPECTOR

EXECUTIVE ASS'T.  
WILLIAM L. WILLIS  
ADMINISTRATIVE ASS'T.  
MARY ANN DEFIBAUGH

July 6, 1993

The Honorable M. Brock Jones  
112th District Court  
Post Office Drawer C  
Ozona, Texas 76943

RE: COMMISSION FOR LAWYER DISCIPLINE v. FRANK PAUL SMARZIK, JR.

Dear Judge Jones,

We enclose for your information, a copy of the order of assignment, a copy of the Disciplinary Action, a copy of the notification letter to the State Bar General Counsel and respondent's attorney in the referenced case.

Sincerely,

SIGNED

John T. Adams  
Clerk

Encl.



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EXECUTIVE ASS'T.  
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T.  
MARY ANN DEFIBAUGH

July 6, 1993

Hon. Amalia Rodriguez-Mendoza  
District Clerk  
Travis County Courthouse  
Post Office Box 1748  
Austin, Texas 78767

RE: COMMISSION FOR LAWYER DISCIPLINE v. FRANK PAUL SMARZIK, JR.

Dear Ms. Rodriguez-Mendoza,

Pursuant to Rule 3.03 of the Texas Rules of Disciplinary Procedure, I am sending for filing, the State Bar of Texas Disciplinary Action referenced above and a copy of the Supreme Court's order appointing a judge to preside in this action.

Sincerely,

SIGNED

John T. Adams  
Clerk

Encl.

cc: Hon. M. Brock Jones  
Mr. Frank Paul Smarzik, Jr.  
Mr. James M. McCormack



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE  
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ADMINISTRATIVE ASS'T.  
MARY ANN DEFIBAUGH

July 6, 1993

Mr. James M. McCormack  
General Counsel, State Bar of Texas  
Post Office Box 12487  
Austin, Texas 78711

Mr. Frank Paul Smarzik, Jr.  
1106 Clayton, Suite 537  
Austin, Texas 78723

RE: COMMISSION FOR LAWYER DISCIPLINE v. FRANK PAUL SMARZIK, JR.

Dear Mr. McCormack and Mr. Smarzik,

Pursuant to Rule 3.02 of the Texas Rules of Disciplinary Procedure, I hereby notify you that the Supreme Court of Texas has appointed the Honorable M. Brock Jones, Judge of the 112th District Court, Post Office Drawer C, Ozona, Texas 76943 to preside in the above referenced action.

Copies of pertinent documents are enclosed for your use.

Sincerely,  
SIGNED

John T. Adams  
Clerk

Encl.

cc: Hon. M. Brock Jones